



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2007 SENATE BILL 129**

December 11, 2007 – Offered by Representatives WOOD, MUSSER and POCAN.

1 **AN ACT to create** 50.375 and 50.389 of the statutes; **relating to:** requiring a
2 hospital to provide to a sexual assault victim information and, upon her
3 request, emergency contraception and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Health and Family Services (DHFS) issues certificates of approval to hospitals that meet DHFS requirements and otherwise regulates approved hospitals.

This substitute amendment requires a hospital to do all of the following if it provides emergency services to a victim, as defined in the substitute amendment, of sexual assault: 1) provide her with medically and factually accurate and unbiased written and oral information about emergency contraception and its use and efficacy; 2) orally inform her of her option to receive emergency contraception, her option to report the sexual assault to a law enforcement agency, and any available options for her to receive an examination to gather evidence regarding the sexual assault; and 3) immediately provide emergency contraception to her upon her request. If the medication is taken in more than one dosage, the hospital shall provide all subsequent dosages to the victim for later self administration. “Emergency contraception” is defined in the substitute amendment to be a drug, medicine, oral hormonal compound, mixture, preparation, instrument, article, or device that is approved by the federal Food and Drug Administration and that prevents a

pregnancy after sexual intercourse. The definition of “emergency contraception” specifically excludes a drug, medicine, oral hormonal compound, mixture, preparation, instrument, article, or device of any nature that is prescribed to terminate the pregnancy of a woman. No hospital must provide emergency contraception to a victim who is pregnant, as indicated by a test for pregnancy.

The substitute amendment also requires a hospital that provides emergency care to ensure that each hospital employee who provides care to a victim of sexual assault has available medically and factually accurate and unbiased information about emergency contraception. DHFS must respond to complaints about violations of these requirements and must periodically review procedures of hospitals to determine whether they are in compliance. Violators of the requirements are subject to forfeitures.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 50.375 of the statutes is created to read:

2 **50.375 Emergency contraception for sexual assault victims.** (1) In this
3 section:

4 (a) “Emergency contraception” means a drug, medicine, oral hormonal
5 compound, mixture, preparation, instrument, article, or device that is approved by
6 the federal food and drug administration and that prevents a pregnancy after sexual
7 intercourse. “Emergency contraception” does not include a drug, medicine, oral
8 hormonal compound, mixture, preparation, instrument, article, or device of any
9 nature that is prescribed to terminate the pregnancy of a female.

10 (b) “Sexual assault” means a violation of s. 940.225 (1), (2), or (3).

11 (c) “Victim” means a female who alleges or for whom it is alleged that she
12 suffered sexual assault and who, as a result of the sexual assault, presents as a
13 patient at a hospital that provides emergency services.

14 **(2)** A hospital that provides emergency services to a victim shall do all of the
15 following:

1 (a) Provide to the victim medically and factually accurate and unbiased written
2 and oral information about emergency contraception and its use and efficacy.

3 (b) Orally inform the victim of all of the following:

4 1. Her option to receive emergency contraception at the hospital.

5 2. Her option to report the sexual assault to a law enforcement agency.

6 3. Any available options for her to receive an examination to gather evidence
7 regarding the sexual assault.

8 (c) Except as specified in sub. (4), immediately provide to the victim upon her
9 request emergency contraception, in accordance with instructions approved by the
10 federal food and drug administration. If the medication is taken in more than one
11 dosage, the hospital shall provide all subsequent dosages to the victim for later self
12 administration.

13 (3) A hospital that provides emergency care shall ensure that each hospital
14 employee who provides care to a victim has available medically and factually
15 accurate and unbiased information about emergency contraception.

16 (4) No hospital may be required to provide emergency contraception to a victim
17 who is pregnant, as indicated by a test for pregnancy.

18 (5) The department shall respond to any complaint received by the department
19 concerning noncompliance by a hospital with the requirements of subs. (2) and (3)
20 and shall periodically review hospital procedures to determine whether a hospital
21 is in compliance with the requirements.

22 **SECTION 2.** 50.389 of the statutes is created to read:

23 **50.389 Forfeiture.** (1) Whoever violates a requirement under s. 50.375 (2)
24 or (3) may be required to forfeit not less than \$2,500 nor more than \$5,000 for each
25 violation.

1 **(2)** The department may directly assess forfeitures provided for under sub. (1).
2 If the department determines that a forfeiture should be assessed for a particular
3 violation, the department shall send a notice of assessment to the hospital. The
4 notice shall specify the amount of the forfeiture assessed, the violation and the
5 statute or rule alleged to have been violated, and shall inform the hospital of the right
6 to a hearing under sub. (3).

7 **(3)** A hospital may contest an assessment of a forfeiture by sending, within 10
8 days after receipt of notice under sub. (2), a written request for a hearing under s.
9 227.44 to the division of hearings and appeals created under s. 15.103 (1). The
10 administrator of the division may designate a hearing examiner to preside over the
11 case and recommend a decision to the administrator under s. 227.46. The decision
12 of the administrator of the division shall be the final administrative decision. The
13 division shall commence the hearing within 30 days after receipt of the request for
14 a hearing and shall issue a final decision within 15 days after the close of the hearing.
15 Proceedings before the division are governed by ch. 227. In any petition for judicial
16 review of a decision by the division, the party, other than the petitioner, who was in
17 the proceeding before the division shall be the named respondent.

18 **(4)** All forfeitures shall be paid to the department within 10 days after receipt
19 of notice of assessment or, if the forfeiture is contested under sub. (3), within 10 days
20 after receipt of the final decision after exhaustion of administrative review, unless
21 the final decision is appealed and the order is stayed by court order. The department
22 shall remit all forfeitures paid to the secretary of administration for deposit in the
23 school fund.

24 **(5)** The attorney general may bring an action in the name of the state to collect
25 any forfeiture imposed under this section if the forfeiture has not been paid following

1 the exhaustion of all administrative and judicial reviews. The only issue to be
2 contested in any such action shall be whether the forfeiture has been paid.

3 (END)